

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

In re:

Regina M. Bronson

Debtor(s).

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Case No.: 17-31720

Chapter 7

Judge Lawrence S. Walter

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**MOTION OF WELLS FARGO BANK, N.A. FOR RELIEF FROM STAY ON FIRST
MORTGAGE FOR REAL PROPERTY LOCATED AT 1359 GRANITE PEAK WAY,
MIAMISBURG, OH 45342**

Wells Fargo Bank, N.A. (the "Creditor") moves this Court, under §§ 361, 362, 363 and other sections of the Bankruptcy Reform Act of 1978, as amended (the "Bankruptcy Code") and under Rules 4001 and other rules of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules") for an Order conditioning, modifying or dissolving the automatic stay imposed by § 362 of the Bankruptcy Code. In support of this Motion, the Creditor states:

MEMORANDUM IN SUPPORT

1. The Court has jurisdiction over this matter under 28 U.S.C. § 157 and 1334. This is a core proceeding under 28 U.S.C. § 157(b)(2). The venue of this case and this Motion is proper under 28 U.S.C. §§ 1408 and 1409.
2. On December 22, 2011, Regina M. Bronson ("Debtor") obtained a loan from Peoples Bank, A Kansas Corporation in the amount of \$236,513.00. Such loan was evidenced by a Promissory Note dated December 22, 2011 (the "Note"), a copy of which is attached as Exhibit A.

3. To secure payment of the Note and performance of the other terms contained in it, the Debtor executed an Open-End Mortgage dated December 22, 2011 (the "Mortgage"). The Mortgage granted a lien on the real property (the "Property") owned by Debtor, located at 1359 Granite Peak Way, Miamisburg, OH 45342 and more fully described in the Mortgage. Regina M. Bronson, unmarried acquired title to the Property by virtue of a deed from The Drees Company, a corporation organized and existing under the laws of the State of Kentucky, dated October 9, 2006, filed November 1, 2006, recorded at Official Instrument Number 06-102359-0001, Recorder's Office, Montgomery County, OH. A copy of said Deed is attached as Exhibit B.
4. The lien created by the Mortgage was duly perfected by the filing of the Mortgage in the office of the Montgomery County Recorder on January 23, 2012. A copy of the Mortgage is attached as Exhibit C. The lien is the first lien on the property.
5. The Note was transferred as follows:
 - a. from Peoples Bank, A Kansas Corporation to Wells Fargo Bank, N.A.. The transfer is evidenced by the allonge attached to this Motion as Exhibit A.
 - b. from Wells Fargo Bank, NA to _____. The transfer is evidenced by the indorsement attached to this Motion as Exhibit A. Because the endorsement is in blank and Creditor is in possession of the original Note, Creditor is entitled to enforce the instrument.
6. The Mortgage was transferred as follows:
 - a. from Mortgage Electronic Registration Systems, Inc., as nominee for People's Bank, its successors and assigns to Wells Fargo Bank, NA, dated February 5, 2016. The transfer is evidenced by the document attached to this Motion as Exhibit D.
7. The value of the Property is \$190,620.00. This valuation is based on Debtor's Schedule A which is attached as Exhibit E.

8. As of June 22, 2017, there is currently due and owing on the Note the principal balance of \$218,217.61, plus interest accruing thereon at the rate of 2.875% per annum from November 1, 2015.
9. Other parties known to have an interest in the Property are as follows:
 - a. None.
10. The balance on Creditor's first mortgage exceeds the value of the Property. Based upon the lack of equity in the Property, Creditor asserts that the Property is burdensome and/or of inconsequential value and benefit to the estate.
11. The Creditor is entitled to relief from the automatic stay under 11 U.S.C. § 362(d)(1) and/or 362(d)(2) for these reason(s):
 - a. Debtor has failed to provide adequate protection for the lien held by the Creditor for the reasons set forth below.
 - b. Debtor has failed to make periodic payments or had made partial payments to Creditor for the months of December 1, 2015 through June 1, 2017 which unpaid payments less any funds being held in suspense are in the aggregate amount of \$33,567.11. The total provided in this paragraph cannot be relied upon as a reinstatement quotation.
 - c. Debtor intends to surrender the Property located at 1359 Granite Peak Way, Miamisburg, OH 45342 according to the Statement of Intent filed.
12. Creditor has completed the worksheet attached as Exhibit F.
13. This Motion does not seek to affect the rights of the Chapter 7 Trustee.

WHEREFORE, Creditor prays for an Order from the Court granting Creditor relief from the automatic stay of 11 U.S.C. § 362 of the Bankruptcy Code to permit Creditor to proceed under law and for such other and further relief to which the Creditor may be entitled.

Respectfully submitted,

/s/ Adam B. Hall

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Attorneys for Creditor
The case attorney for this file is Adam B. Hall.
Contact email is abh@manleydeas.com

NOTICE OF MOTION

Wells Fargo Bank, N.A. has filed papers with the court to obtain relief from stay.

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. If you do not have an attorney, you may wish to consult one.

If you do not want the court to grant the relief sought in the motion, then on or before **twenty-one (21) days from the date set forth in the certificate of service for the motion**, you must file with the court a response explaining your position by mailing your response by regular U.S. Mail to:

Clerk of the United States Bankruptcy Court
Old Post Office
120 West Third Street
Dayton, OH 45402

OR your attorney must file a response using the court's ECF system.

The court must **receive** your response on or before the above date.

You must also send a copy of your response either by 1) the court's ECF System or by 2) regular U.S. Mail to:

Manley Deas Kochalski LLC, Attention: Adam B. Hall, P.O. Box 165028 Columbus, OH 43216-5028

Office of U.S. Trustee, Southern District of Ohio, Party of Interest, 170 North High Street, #200, Columbus, OH 43215

Paul Spaeth, 7925 Paragon Road, Suite 101, Dayton, OH 45459

Jessica Goldberger, Attorney for Regina M. Bronson, 300 E. Business Way, Ste 200, Cincinnati, OH 45241
jessicap@amourgis.com

Montgomery County Treasurer, 451 W. Third Street, P.O. Box 972, Dayton , OH 45422

If you or your attorney do not take these steps, the court may decide that you do not oppose the relief sought in the motion and may enter an order granting that relief without further hearing or notice.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Motion for Relief from Stay on First Mortgage for Real Property Located at 1359 Granite Peak Way, Miamisburg, OH 45342 was **electronically** through the court's ECF System at the email address registered with the court:

Office of U.S. Trustee, Southern District of Ohio, Party of Interest, 170 North High Street, #200, Columbus, OH 43215

Paul Spaeth, 7925 Paragon Road, Suite 101, Dayton, OH 45459

Jessica Goldberger, Attorney for Regina M. Bronson, 300 E. Business Way, Ste 200, Cincinnati, OH 45241, jessicap@amourgis.com

and by ordinary U.S. mail on July 27, 2017 addressed to:

Regina M. Bronson, 6128 Fox Meadow Dr., Westerville, OH 43081

Montgomery County Treasurer, 451 W. Third Street, P.O. Box 972, Dayton, OH 45422

/s/ Adam B. Hall

Adam B. Hall